IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

WEDNESDAY, THE 29TH NOVEMBER 2006 / 8TH AGRAHAYANA 1928

WP(C).No. 24891 of 2006(L)

PETITIONER:

ALI AKBER P.T., S/O. MOOSSA,
AGED 36 YEARS, FOREST CONTRACTOR,
ATHANIKKAL HOUSE, P.O.MAMPADU,
MALAPPURAM DISTRICT.

BY ADV. SRI.K.M.SATHYANATHA MENON

RESPONDENTS:

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1. THE DEPUTY GENERAL MANAGER (FORESTRY),
HINDUSTAN NEWS PRINT LIMITED,
NEWS PRINT NAGAR, KOTTAYAM.

2. THE MANAGER (FORESTRY),
ZONAL OFFICE, HINDUSTAN NEWS PRINT LIMITED,
THRISSUR MULLOORKKARA, THRISSUR DISTRICT.

BY ADV. SRI.ANTONY DOMINIC-SC
SRI.A.M.SHAFFIQUE
SRI.E.K.NANDAKUMAR
SRI.A.K.JAYASANKAR NAMBIAR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 29/11/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR, J.

W.P.(C).NO.24891 of 2006-L

Dated this the 29th day of November, 2006

JUDGMENT

The petitioner is a contractor enlisted by the Hindustan News Print Limited, for a period of two years for cutting and removing bamboos on its behalf. He was awarded Ext.P1 work order for supplying 2085 Metric Tonnes of bamboos to Hindustan News Print Limited from the contract area earmarked. He has to supply bamboo before 31-5-2006. The petitioner submits that owing to weather conditions, he could not perform the contract. He prayed for extension of time. Finally, he submitted Ext.P3 representation on 30-8-2006, praying for extension of time of contract. But, the said representation was rejected by Ext.P4 and thereafter, fresh notification was issued, as per Ext.P5, to allot the work which was allotted to the petitioner. Hence, this writ petition, challenging the re-notification issued as per Ext.P5. According to the petitioner, his prayer for extension of time should have been granted. The respondents have granted extension of time in similar circumstances. He has given the details of such instances, in para 6 of the writ petition.

2. The respondents have filed a counter affidavit stating that since the petitioner's enlistment as a contractor has expired by 31-8-2006 and the petitioner failed to perform the contract, the period for performing the contract cannot be extended. For the very same reason fresh notification was issued. Dealing with the contention of the petitioner that he has been discriminated, the respondents have stated in their counter affidavit in para 5 as follows:

> *"As far as the cases cited by the petitioner in paragraph 6 of the writ petition is concerned, it is submitted that the contractors mentioned therein were also enlisted along with the petitioner and it was during the said period that purchase orders were issued to them. As regards Sri.Abdul Nazar P.T. Ext.P6 is the purchase order issued, the period of which was extended by Ext.P8. In spite of it, he was enlisted for the subsequent period, for the reason that he had supplied, though partially, against order No.110400. Similarly, Sri.Santhosh Kumar also had fully performed two purchase orders, although he had not supplied against purchase order No.110516. As far as Sri.Chekoo V.P. is concerned, while he supplied fully against purchase order No.110424, he had failed to supply against purchase order No.110513. Thus, as these contractors had performed at least partially, they were recommended for enlistment for the*

subsequent period, and in so far as the petitioner is concerned, he did not perform the purchase order and therefore was no recommended for enlistment. Thus the case of the petitioner stands differently from these three contractors and hence the petitioner cannot complain of discrimination."

3. I heard the learned counsel on both sides. Since the petitioner failed to perform the contract in time, the respondents have rightly decided to issue the fresh notification. The petitioner cannot claim that the leniency shown to other contractors, based on valid grounds should be extended to him also. Going by the averments in the counter affidavit quoted above, I find that no discrimination has been shown in the case of the petitioner, by refusing to extend the time of contract.

In the result, the writ petition fails, and it is dismissed.

K.BALAKRISHNAN NAIR,JUDGE.

MS